

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 06-30-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The work hardening, office visits and functional capacity evaluation were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 10th day of September 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 10-20-03 through 11-18-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 10<sup>th</sup> day of September 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/dlh

September 3, 2004

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

Patient:  
TWCC #:  
MDR Tracking #: M5-04-3754-01  
IRO #: 5251

Ziroc has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Ziroc for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Ziroc has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The Ziroc health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Ziroc for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### RECORDS REVIEWED

Available documentation received and included for review consist of records from Dr. B (DC) including treatment notes, rehab notes, office visits, Dr. H (MD) including evaluation and ESI surgical notes, MRI studies of the cervical spine and right shoulder, and work hardening notes including functional assessment reports.

#### CLINICAL HISTORY

\_\_\_\_, a 23-year-old female injured her right shoulder and neck pain as a result of a lifting and twisting injury, lifting clothes weighing approximately 50 lbs. from waist height. She had

immediate pain and was initially seen by the company doctor, where she was prescribed medication. She returned to work in a limited capacity but continued to have trouble, so presented to Dr. B, a chiropractor, on 4/9/03. Initial impression was of cervical discopathy, segmental dysfunction, bicipital tenosynovitis and muscle spasms. She was placed on a conservative treatment régime, as well as referred out for EMG/NCV studies, MRI (cervical and shoulder) and medication management to Dr. S. The MRI of the right shoulder reveals focal tendonitis of the supraspinatus tendon and the cervical spine MRI showed mild bulging of C5/6 and C6/7. Treatments subsequently included ESI of the cervical spine on 8/20/03 (Dr. H, M.D), followed by some rehabilitation exercises.

The patient failed to respond completely to this treatment. A functional capacity evaluation revealed a sedentary physical demand level of function, and a psychological profile revealed anxiety and depression disturbances. She was subsequently entered into a work hardening program.

#### DISPUTED SERVICES

Under dispute is the medical necessity of work hardening, office visits and functional capacity evaluation 10/20/03-11/18/03

#### DECISION

The reviewer disagrees with the prior adverse determination.

#### BASIS FOR THE DECISION

The patient failed traditional first-line interventionary measures, with continuation of relatively high pain levels and continuing functional deficits. It appears the patient was a good candidate for entry into the program as she had been out of work for a considerable period of time by the time she entered into a work hardening environment. Functional capacity evaluations are the accepted, required assessments for determining benchmark physical demand levels with such programs.

The office visits in question appeared appropriate due to evaluate the patient's condition in conjunction with her work hardening program.

The patient demonstrated some improvement with the program per her follow-up evaluation on 11/04/03.

Ziroc has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Ziroc has made no determinations regarding benefits available under the injured employee's policy

As an officer of ZRC Services, Inc, dba Ziroc, I certify that there is no known conflict between the reviewer, Ziroc and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Ziroc is forwarding this finding by US Postal Service to the TWCC.

Sincerely,